

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

DEWAYNE SPRENGER,

Appellant,

v.

MISSOURI DEPARTMENT OF PUBLIC SAFETY,
DIVISION OF ALCOHOL & TOBACCO CONTROL,

Respondent.

DOCKET NUMBER WD71745

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 21, 2010

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Richard G. Callahan, Judge

APPELLATE JUDGES

Division One: James M. Smart, Jr., Presiding Judge, and Mark D. Pfeiffer
and Cynthia L. Martin, Judges

ATTORNEYS

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MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

DEWAYNE SPRENGER,)
)
Appellant,)
v.)
)
MISSOURI DEPARTMENT OF PUBLIC)
SAFETY, DIVISION OF ALCOHOL &)
TOBACCO CONTROL,)
)
Respondent.)

WD71745

Cole County

Before Division One Judges: James M. Smart, Jr., Presiding Judge, and
Mark D. Pfeiffer and Cynthia L. Martin, Judges

Appellant Dewayne Sprenger appeals from a judgment of the Circuit Court of Cole County, Missouri, affirming the Department of Public Safety's Personnel Hearing Board decision awarding attorney fees at the rate of \$75 per hour, pursuant to section 536.085 RSMo 2000.

In his sole point on appeal, Sprenger contends that the uncontested fact that the market rate for attorneys in mid-Missouri is significantly higher than \$75 an hour is a "special factor" as contemplated by the statute justifying an award of attorney's fees in excess of the statutory rate.

AFFIRMED.

Division One holds:

We find that the logic of Sprenger's argument would eviscerate the statutory cap, as all proceedings would present the "special factor" Sprenger advocates. Our role in statutory interpretation is to determine the intent of the legislature, not to alter the law by judicial fiat to what we believe it should be. This construction would defeat the plain language of the statute

and give it a meaning that was not contemplated by the legislature. Consequently, we affirm the decision of the Board setting the rate at \$75 per hour.

Opinion by: Mark D. Pfeiffer, Judge

September 21, 2010

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.